

IT IS ORDERED as set forth below:

Date: July 29, 2015



Wendy L. Hagenau

Wendy L. Hagenau
U.S. Bankruptcy Court Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA**

IN RE:)

WILLIAM ALLEN TREXLER)

Debtor,)

_____))

JOHN J. FLEMM)

Plaintiff,)

v.)

WILLIAM ALLEN TREXLER,)

Defendant.)

_____))

Case No. 14-52495-wlh

Hon. Wendy L. Hagenau

Adv. Proc. No. 14-05133

CONSOLIDATED PRETRIAL ORDER

(1) A statement of any pending motions or other matters.

None at this time.

(2) The parties state that Discovery is extended on mutual consent until August 11, 2015 (14 days before trial) in order to allow sufficient time for the depositions of: William Trexler (in person), and John Flemm (telephonically). Any non-party depositions in order to preserve evidence for trial may be taken as otherwise authorized by law.

(3) A statement as to the correctness of the names of the parties and their capacity and as to any issue of misjoinder or non-joinder of parties.

The names of the parties are correct and there is no issue of misjoinder or non-joinder of parties.

(4) A statement as to any question of the Bankruptcy Court's jurisdiction and the statutory basis of Jurisdiction.

This adversary proceeding is brought in connection with the Defendant's case number 14-52495-wlh under Chapter 7 of Title 11 of the United States Code. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. Section 157 and Section 1334, and 11 U.S.C. Section 523(a).

(5) The individual names, addresses, and telephone numbers of lead counsel for each party.

For Plaintiff:

William R. Joiner, Esq.
Mitchell & Shapiro LLP
3490 Piedmont Road
Suite 650
Atlanta, Georgia 30305
(404) 812-4747

For Defendant:

Howard P. Slomka, Esq.
1069 Spring Street, NW, Suite 200
Atlanta, GA 30309
(678) 732-0001

(6) A brief description, including style and case number of any pending related litigation, including any related pending adversary proceedings.

There are no related pending adversary proceedings.

(7) An outline of plaintiff's case, which shall include:

(A) A succinct factual statement of plaintiff's cause of action which shall neither be argumentative nor recite evidence.

(B) A separate listing of all Bankruptcy Rules and statutes as well as any other Rules, regulations, statutes, ordinances, and illustrative case law relied upon by plaintiff.

(C) A separate statement for each item of damage claimed containing a brief description of the item of damage, dollar amount claimed, and citation to the law, Rule, regulation, or any decision authorizing a recovery for that particular item of damage. Items of damage not identified in this manner shall not be recoverable.

Plaintiff refers the Court to his previously filed Motion for Summary Judgment.

(8) An outline of defendant's case, which shall include:

(A) A succinct factual summary of defendant's general, special, and affirmative defenses, which shall neither be argumentative nor recite evidence.

(B) A separate listing of all Bankruptcy Rules and statutes as well as any other Rules, regulations, statutes, ordinances, and illustrative case law creating a defense relied upon by defendant.

(C) A separate statement for each item of damage claimed in a counterclaim, which shall contain a brief description of the item of damage, the dollar amount claimed, and citation to the law, Rule, regulation, or any decision which authorizes a recovery for that particular item of damage. Items of damage not identified in this manner shall not be recoverable.

Defendant refers the Court to his previously filed Response to Plaintiff's Motion for Summary Judgment.

(9) Any objection by the defendant to the outline of the plaintiff's case.

Defendant refers the Court to his previously filed Response to Plaintiff's Motion for Summary Judgment.

(10) Any objection by the plaintiff to the outline of the defendant's case.

Plaintiff refers the Court to his previously filed Motion for Summary Judgment.

(11) A listing of stipulated facts. It is the duty of counsel to cooperate fully with each other to identify all undisputed facts. A refusal to do so may result in the imposition of sanctions upon the non-cooperating counsel.

The parties will amend this Order at the conclusion of discovery and not less than 10 days before trial to respond to the above information.

(12) A statement of the legal issues to be tried.

The parties will amend this Order at the conclusion of discovery and not less than 10 days before trial to respond to the above information.

13) Party Witnesses

Witnesses Plaintiff Will Have at Trial

1. John J. Flemm
c/o William R. Joiner
MITCHELL & SHAPIRO LLP
3490 Piedmont Road
Suite 650
Atlanta, GA 30305
(404) 812-4751
2. William Alan Trexler
c/o Howard P. Slomka, Esq.
THE SLOMKA LAW FIRM, PC
1069 Spring Street, NW
Second Floor
Atlanta, GA 30309

**Witnesses Plaintiff May Have at Trial
(via live testimony or testimony preserved by pre-trial depositions)**

1. Thomas W. Vastrick
522 S. Hunt Club Blvd.
Apopka, Florida 32703
407-234-3219
2. Thomas Montalbano
2000 S. Ocean Lane, Apt. 6
Ft. Lauderdale, Florida 33316
954-462-3665

3. David R. Naser
259 Shubert Road
Hartwell, Georgia 30643
404- 386-1786
4. Charles DiPaolo
1726 SW 11th Ave.
Cape Coral, Florida 33991
239-313-0738
5. Curtis Ferrell
P.O. Box 290584
Port Orange, Florida 32129
386-290-5848

Witnesses Defendant Will Have at Trial

1. John J. Flemm
c/o William R. Joiner
MITCHELL & SHAPIRO LLP
3490 Piedmont Road
Suite 650
Atlanta, GA 30305
(404) 812-4751
2. William Alan Trexler
c/o Howard P. Slomka, Esq.
THE SLOMKA LAW FIRM, PC
1069 Spring Street, NW
Second Floor
Atlanta, GA 30309

Defendant reserves his right to call any witness listed or called by Plaintiff.

**Witnesses Defendant May Have at Trial
(via live testimony or testimony preserved by pre-trial depositions)**

1. Heather Lynn Childers
6951 Sorrento St.
Orlando, Florida 32819
2. Jeana Michelle Trexler
110 Walter Way
#2602
Stockbridge, Georgia 30281

14) Documentary and Physical Evidence

PLAINTIFF'S EXHIBIT LIST

<u>Exhibit No.</u>	<u>Exhibit Description</u>
1.	Inventory dated 1/03/08 signed By William Trexler
2.	Forensic Document Examination Report dated 3/7/11 and supporting documentation
3.	Photos of Colt .45 Pistol
4.	Photos of fully automatic Vector firearm
5.	3/25/05 Charles W. Clawson letter to Trexler re authenticity of Singer, with envelope
6.	Evaluation Opinion dated 3/17/03 from Scott Woller
7.	Evaluation Opinion dated 6/7/03 from Scott A. Gal...
8.	Evaluation Opinion dated 6/8/03 from Doug

Turnbull

9. Evaluation Opinion dated 7/6/03 from Charles W. Clawson
10. Orange County Sheriff's Office Statement dated 8/3/09, Case No. 09-073695
11. Sworn Statement of William Trexler to Detective Tanisha Moorehead dated 10/15/09
12. Incident Report Orange County Sheriff's Office dated 8/3/09
13. Incident Report Orange County Sheriff's Office Report No. 09-73695 dated 10/14/09
14. Incident Report Orange County Sheriff's Office Report No. 09-73695 dated 11/02/09
15. Collector of Curios and Relics license for William A. Trexler
16. Check No. 222 to Allen Trexler in the amount of \$1,000.00
17. Copies of tags for weapons by Plaintiff
18. Department of the Treasury Firearms Transaction Record dated 9/11/03 re Browning Hi-Power pistol
19. Photos of box box made by Montalbano and presented to Plaintiff in November 2007
20. Orlando Orange County Expressway Authority Toll Account Statements
21. Complaint in Case No. 2010-CS-10631-O, Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida

22. Plaintiff's First Interrogatories to Defendant in Case No. 2010-CS- 10631-O, Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida
23. Answers to Plaintiff's First Set of Interrogatories to Defendant in Case No. 2010-CS-10631-O, Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida
24. Defendant's Notice of Service of Amended Answers to Interrogatories in Case No. 2010-CS-10631-O, Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida, and answers
25. Plaintiff's Second Interrogatories to Defendant in Case No. 2010-CS-10631-O, Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida
26. Defendant's Notice of Service of Answers to Second Interrogatories in Case No. 2010-CS-10631-O, Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida, and answers
27. Plaintiff's First Request for Admissions in Case No. 2010-CS-10631-O, Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida
28. Response to Request for Admissions in Case No. 2010-CS-10631-O, Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida
29. Transcript of Deposition of Allen Trexler in Case No. 2010-CS-10631-O, Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida

30. Petition for Protection from Domestic Violence
file by Plaintiff's wife on or about 2/27/08
31. Plaintiff's First Request for Production in Case No.
2010-CS-10631-O, Circuit Court of the Ninth
Judicial Circuit in and for Orange County, Florida
32. Defendant's Response to Request for Production in
Case No. 2010-CS-10631-O, Circuit Court of the
Ninth Judicial Circuit in and for Orange County,
Florida
33. Plaintiff's Second Request for Production in Case
No. 2010-CS-10631-O, Circuit Court of the Ninth
Judicial Circuit in and for Orange County, Florida
34. Defendant's Response to Second Request to
Produce in Case No. 2010-CS-10631-O, Circuit
Court of the Ninth Judicial Circuit in and for
Orange County, Florida, including the "bound
book" created and maintained by Defendant
35. Blue Book of Gun Values

Defendant's Exhibit List

Exhibit No.	Exhibit Description
1.	Battery Report dated 2/26/08
2.	Letter to Montalbano dated 10/1/09
3.	Domestic Violence Report dated 2/27/08
4.	Family Law Financial Affidavit dated 2/19/08
5.	Incident Report undated # 09-73695
6.	Inventory Report dated 3/3/08
7.	Phase VII Report dated 6/5/07
8.	Summary of Police Report undated
9.	Theft Report dated 10/8/09
10.	Theft Report dated 10/9/09
11.	All documents listed by or used by Plaintiff at trial
12.	All documents required to rebut Plaintiff's evidence at trial

(15) A listing of all persons whose testimony at trial will be given by deposition and designation of the portions of each person's deposition which will be introduced. Objections not filed by the date on which the case is first scheduled for trial shall be deemed waived or abandoned. Extraneous and unnecessary matters, including non-essential colloquy of counsel, shall not be permitted to be read into evidence.

The parties will amend this Order at the conclusion of discovery and not less than 10 days before trial to respond to the above information.

(16) Any trial briefs which counsel may wish to file containing citations to legal authority on evidentiary questions and other legal issues. Briefs must be limited to 25 pages unless leave to exceed the limit is granted by the Bankruptcy Court in advance. No brief will be considered that does not comply. Any brief in excess of 15 pages shall be indexed.

The parties wish to reserve the right to file trial briefs at least three days prior to the trial.

(17) Third-party claimants, crossclaimants and those asserting counterclaims shall furnish the same information with respect to their claims; however, duplication of matters already covered is not required.

(18) A statement of the date on which counsel met personally to discuss settlement, whether the Bankruptcy Court has discussed settlement with counsel, and the likelihood of settlement of the case at this time.

Plaintiff's counsel and Defendant's counsel discussed possible settlement by phone on several occasions, and most recently in person on the date of the status conference on May 7, 2015. Defendant's counsel tendered a settlement offer to Plaintiff's counsel. The parties were unable to reach a settlement in this matter. At this time, it is unlikely that the case will settle.

(19) A statement of each party's estimate in hours of the time required to present that party's evidence and an estimate of the total trial time.

The parties' counsel estimates that this trial should take one to two days.

(20) Any request for a pretrial conference prior to trial.

The parties do not request a pretrial conference prior to trial.

IT IS HEREBY ORDERED that the above constitutes the pretrial order for the above-captioned case, submitted by stipulation of the parties.

IT IS FURTHER ORDERED that the foregoing, including the attachments thereto, constitutes the pretrial order in the above case and that it supersedes the pleadings which are hereby amended to conform hereto and that this pretrial order shall not be amended except by Order of the Bankruptcy Court, to prevent manifest injustice.

[END OF DOCUMENT]

Each of the undersigned counsel for the parties hereby consents to entry of the foregoing pretrial order, which has been prepared in accordance with the form pretrial order adopted by this Court.

/s/ William R. Joiner

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(404) 812-4740 – facsimile
Counsel for Plaintiff

/s/ Howard P. Slomka

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Counsel for Defendant